

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

To:

Commissioner
 US Department of Commerce
 United States Patent and Trademark
 Office, PCT
 2011 South Clark Place Room
 CP2/5C24
 Arlington, VA 22202
 ETATS-UNIS D'AMERIQUE
 in its capacity as elected Office

Date of mailing (day/month/year) 08 March 2002 (08.03.02)	
International application No. PCT/US01/11732	Applicant's or agent's file reference 70869-0074
International filing date (day/month/year) 27 April 2001 (27.04.01)	Priority date (day/month/year) 28 April 2000 (28.04.00)
Applicant ELLSWORTH, James, R. et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:
 28 November 2001 (28.11.01)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

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The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Claudio BORTON Telephone No.: (41-22) 338.83.38
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PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT**NOTIFICATION REGARDING THE
CONFIRMATION OF PRECAUTIONARY
DESIGNATIONS**

(PCT Rule 24.2(a), last sentence)

To:

CLARK, Conrad, J.
Clark & Brody
Suite 600
1750 K Street, NW
Washington, DC 20006
ETATS-UNIS D'AMERIQUE

Date of mailing (day/month/year) 20 September 2001 (20.09.01)		
Applicant's or agent's file reference 70869-0074		IMPORTANT NOTIFICATION
International application No. PCT/US01/11732	International filing date (day/month/year) 27 April 2001 (27.04.01)	Priority date (day/month/year) 28 April 2000 (28.04.00)
Applicant HARVEST TECHNOLOGIES CORPORATION		

1. The applicant is hereby notified that, pursuant to the confirmation of precautionary designations, the following designated Offices will also be notified of the receipt of the record copy by the International Bureau:

List of designated Offices :

National: AU

Name(s) of applicant(s) for
the designated States concerned :

2. This notification complements the Notification of Receipt of Record Copy (Form PCT/IB/301).
3. The applicant is reminded that
- (i) the data appearing above, and especially the (list of) designation(s) should be carefully checked;
 - (ii) the time limits for entering the national phase in the designated Offices must be monitored by the applicant (see the Annex to Form PCT/IB 301).
4. A copy of this notification is being sent to the receiving Office.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Jean-Marie MCADAMS
Facsimile No (41-22) 740 14 35	Telephone No (41-22) 338 83 38

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 27 AUG 2002

WIPO PCT

Applicant's or agent's file reference 70869-0074	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No PCT/US01/11732	International filing date (day/month/year) 27 APRIL 2001	Priority date (day/month/year) 28 APRIL 2000
International Patent Classification (IPC) or national classification and IPC IPC(7): B01B 15/00 and US Cl.: 494/85; 210/514		
Applicant HARVEST TECHNOLOGIES CORPORATION		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 28 NOVEMBER 2001	Date of completion of this report 22 JULY 2002
Name and mailing address of the IPEA US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer WANDA L WALKER <i>Wanda L Walker</i>
Facsimile No 703 305-3230	Telephone No 703 308-0651

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US01/11732

I. Basis of the report1. With regard to the **elements** of the international application:*

the international application as originally filed



the description:

pages 1-7 , as originally filed
pages NONE , filed with the demand
pages NONE , filed with the letter of _____



the claims:

pages 8-10 , as originally filed
pages NONE , as amended (together with any statement) under Article 19
pages NONE , filed with the demand
pages NONE , filed with the letter of _____



the drawings:

pages 1-4 , as originally filed
pages NONE , filed with the demand
pages NONE , filed with the letter of _____



the sequence listing part of the description:

pages NONE , as originally filed
pages NONE , filed with the demand
pages NONE , filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:



the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).



the language of publication of the international application (under Rule 48.3(b)).



the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

contained in the international application in printed form.



filed together with the international application in computer readable form.



furnished subsequently to this Authority in written form.



furnished subsequently to this Authority in computer readable form.



The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.



The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:the description, pages NONEthe claims, Nos. NONEthe drawings, sheets/fig NONE5. ☐ This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

**Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US01/11732

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been and will not be examined in respect of:

☐ the entire international application.

☒ claims Nos. 11-16

because:

☐ the said international application, or the said claim Nos. _ relate to the following subject matter which does not require international preliminary examination (*specify*).

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _ are so unclear that no meaningful opinion could be formed (*specify*).

☐ the claims, or said claims Nos. _ are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 11-16.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No

PCT/US01/11732

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. statement**

Novelty (N)	Claims	<u>NONE</u>	YES
	Claims	<u>1-10</u>	NO
Inventive Step (IS)	Claims	<u>NONE</u>	YES
	Claims	<u>1-10</u>	NO
Industrial Applicability (IA)	Claims	<u>1-10</u>	YES
	Claims	<u>NONE</u>	NO

2. citations and explanations (Rule 70.7)

Claims 1-9 lack novelty under PCT Article 33(2) as being anticipated by U'S 280,820 A (HICKSON). Regarding claim 1, a tube (A,B) and a disk (G) are disclosed. Regarding claim 2, the disk fits so that there is a gap (see psge 1, lines 67-69). Regarding claim 3, said disk slides on a shaft (D). Regarding claim 4, said disk is arranged to rotate about an axis transverse to the longitudinal axis of said tube (see Fig. 1). Regarding claim 5, a shaft (D) extends along said tube and engages said disk such that said disk slides along said shaft (see psge 1, lines 67-69). Regarding claim 6, said disk includes an upper outer edge and a lower outer edge and the transverse dimension between said upper outer edge and lower outer edge is greater than the internal diameter of said tube (see Fig. 1). Regarding claims 7 and 8, the upper surface is cylindrical (see Figs. 1 and 2). Regarding claim 9, said disk is shaped such that its center of bouyancy is located an upper surface of the disk (for example, the upper surface of the lower layer of the float shown is Fig. 1; note also reference character "p"). Note: it is unclear exactly what applicant intends by term "center of bouyancy", whether this is the a a property of the float itself, such as would be "center of gravity" or if the term relates to combined properties of the float and the fluid components, in which case the term would note be considered limiting in a apparatus/product claim.

Claims 1, 2 and 7-9 lack novelty under PCT Article 33(2) as being anticipated by U'S 593,333 A (PARK). Regarding claim 1, a tube (A) and a disk (D) are disclosed. Regarding claim 2, the disk fits so that there is a gap (see page 1, lines 92-93). Regarding claims 7 and 8, the upper surface is cylindrical (see Figs. 1-3). Regarding claim 9, said disk is shaped such that its center of bouyancy is located an upper surface of the disk (see Figs. 1 and 2). Note: it is unclear exactly what applicant intends by term "center of bouyancy", whether this is the a a property of the float itself, such as would be "center of gravity" or if the term relates to combined properties of the float and the fluid components, in which case the term would note be considered limiting in a apparatus/product claim.

(Continued on Supplemental Sheet.)

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US01/11732

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 9 is objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because the claim is indefinite for the following reason: The meaning of the term "center of bouyancy" is unclear. It is unclear if this is the same as or different from center of gravity. It is unclear if "center of bouyancy" denotes a property of the float itself or a combined property of the float and a particular set of fluids in which the float is intend to be used.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US01/11732

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

V. 2. REASONED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued):

Claims 1,2,7 and 8-10 lack novelty under PCT Article 33(2) as being anticipated by US 5,736,033 A (COLEMAN ET AL.). Regarding claim 1, a tube (30) and a disk (10) are disclosed. Regarding claim 2, the disk fits so that there is a gap (see Fig. 1). Regarding claims 7 and 8, the upper surface is cylindrical (see Figs. 1-3). Regarding claim 9, said disk is shaped such that its center of buoyancy is located on upper surface of the disk (see Figs. 4 and 5). Note: it is unclear exactly what applicant intends by term "center of buoyancy", whether this is the a property of the float itself, such as would be "center of gravity" or if the term relates to combined properties of the float and the fluid components, in which case the term would not be considered limiting in a apparatus/product claim. Regarding claim 10, the specific gravity of said disk is such that its upper surface will lie just below an interface between plasma and red blood cells (see col. 6, lines 6-9).

Claims 1-10 meet the criteria set out in PCT Article 33(4), because the device is applicable in the medical field.

----- NEW CITATIONS -----

NONE

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US01/11732

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) B01B 1/00
US CL. 494/85; 210/514

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. 494/85; 210/514; 515; 516; 518; 220/216

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X --- Y	US 280,820 A (HICKSON) 10 July 1883, entire document, especially page 1, lines 67-70.	1-9 --- 10
X --- Y	US 593,333 A (PARK) 09 November 1897, entire document.	1,2,7-9 --- 10
X --- Y	US 3,409,165 A (CREITH) 05 November 1968, figs. 1, 3 and 4.	1-5, 7-9 --- 10
X	US 5,736,033 A (COLEMAN et al.) 07 April 1998, entire document, especially col. 6, lines 6-8.	1,2,7,8,10



Further documents are listed in the continuation of Box C.



See patent family annex.

* Special categories of cited documents	* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
A document defining the general state of the art which is not considered to be of particular relevance	*N* document of particular relevance, the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
E earlier document published on or after the international filing date	*Y* document of particular relevance, the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
L document which may throw doubts on priority claims or which is cited to establish the publication date of another citation or other special reason has specified	*X* document member of the same patent family
O document referring to an oral disclosure, use, exhibition or other means	
P document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

11 JULY 2001

Date of mailing of the international search report

02 AUG 2001

Name and mailing address of the ISA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, DC 20231

Facsimile No. (703) 305-3230

Authorized officer

DAVID L. SORKIN

Telephone No. (703) 308-0651

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US01/11732

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This international report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

Please See Extra Sheet.

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims, it is covered by claims Nos.:

1-10

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest
☐ No protest accompanied the payment of additional search fees

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US01/11732

BOX II OBSERVATIONS WHERE UNITY OF INVENTION WAS LACKING

This ISA found multiple inventions as follows

This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1. In order for all inventions to be searched, the appropriate additional search fees must be paid.

Group I, claims 1-10, drawn to a tube and disk.

Group II, claim 11, drawn to a disk.

Group III, claims 12-16, drawn to a method of decanting.

The inventions listed as Groups I-III do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: While all groups share "a disk", a disk is not a special technical feature because it is known. For example, US 280,820 A (HICKSON) discloses a disk (G).